

not avail the defendants, because the services were rendered whilst the son lived with the father, and during his minority. Under such circumstances, and, indeed, even though the son did not live with the father, still, being a minor, the father was entitled to his services, and could maintain an action for them, unless, by some act of his own, he had divested himself of his control over him. *Mercer vs. Walmsley*, 5 H. & J., 27.

The deed, therefore, as I conceive, of the land to the son, must be regarded for all over the \$5,000, paid in money, as voluntary, being founded on the consideration of natural love and affection; and this presents the question, whether it was made under such circumstances as will protect the property from the claims of creditors?

Though the term "voluntary" is not to be found in the statute, yet the construction put upon it by the highest court of this state is, that an indebtedment at the time of a conveyance of that description, is *prima facie*, though not conclusive, evidence of a fraudulent purpose, with respect to the prior creditors, though this presumption may of course be repelled, by showing that the grantor or donor at the time of the gift, was in prosperous circumstances, possessed of ample means to discharge all his pecuniary obligations, and that the settlement upon the child, was a reasonable provision according to his or her condition in life. This was the conclusion to which the Court of Appeals came, in the case of *Worthington and Anderson vs. Shipley*, 5 Gill, 449, after a careful review of the authorities.

A principle of much greater sternness had been announced by Chancellor Kent, in the case of *Reade vs. Livingston*, 3 Johns. Ch. Rep., 481, who held that the conclusion to be drawn from the cases, was that if the party be indebted at the time of the voluntary settlement, it is presumed to be fraudulent in respect to such debts, and no circumstance will permit those debts to be affected by the settlement, or repel the presumption of fraud. That the presumption of fraud does not depend upon the amount of the debts, or the extent of the property in settlement, or the circumstances of the party, and he declared